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March 11, 2009

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Case Name: Personnel Security Hearing

Filing Date: October 31, 2008

Case Number: TSO-0685

This Decision considers the eligibility of XXXXX (the individual) to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As I explain below, the Department of Energy (DOE) should not restore the individual's access authorization.

I. Background

By age 18, two nights a week and one night every weekend, the individual drank 32-48 ounces of beer and became intoxicated. *Id.* at 28. At age 20 or 21 (in June or July 1981), he was arrested for DWI. *Id.* at 29. At age 25 (in 1985), the individual began working for the DOE, and the DOE granted him an access authorization. DOE Exh. 3, at 2 (DOE Case Eval., June 30, 2008); DOE Exh. 32, at 3 (QNSP, Nov. 9, 1990); Tr. at 12.

Meanwhile the individual's drinking escalated. By age 35, every night he drank 32-48 ounces of beer and became intoxicated. DOE Exh. 33, at 29 (PSI, Mar. 17, 2008). Then he married and his alcohol consumption declined. *Id.* By his early 40's, his drinking had increased to a pattern; approximately every other night he became intoxicated. During the week he drank 2-3 mixed whiskey drinks, and on the weekends he drank 96-120 ounces of beer. *Id.* at 30. At age 40 (in May 2001), he was arrested for DWI for the second time. He briefly decreased his drinking and then resumed his pattern. *Id.* at 30-31.

At age 43, in an effort to save his marriage, the individual quit drinking. DOE Exh. 34, at 68 (PSI, Feb. 10, 2005). Two months into his sobriety, the individual's wife and kids left. Then he relapsed; every night he drank mixed drinks or 96-120 ounces of beer and became intoxicated. *Id.* at 69. About seven months later (in June 2004), the individual was arrested for DWI for the third time. DOE Exh. 33, at 32 (PSI, Mar. 17, 2008).

The next day, the individual marked an official sobriety date. Soon thereafter, he began participating in Alcoholics Anonymous (AA) and entered an intensive outpatient treatment program. *Id.* at 23, 32-33. During his treatment, he said that he intended to not drink again. DOE Exh. 34, at 79 (PSI, Feb. 10, 2005).

At age 44 (in April 2005), a DOE-consultant psychiatrist diagnosed the individual with Alcohol Dependence with Physiological Dependence, in Early Full Remission. DOE Exh. 38, at 2 (Hearing Officer's Decision, May 31, 2006). In September 2005, the DOE suspended the individual's access authorization and referred him to administrative review. He told a Hearing Officer:

I've learned a lot more about myself and my triggers for drinking. You know, you never say never, but I'm going to say I do not see me ever going back to the bottle. I've just learned too much, and things have been too good this last 20, 21 months to reverse course. You know, you're always going to have ups and downs, hardships, but now I have a support system and the knowledge base to deal with the things that might come down, come my way.

....

[T]his whole deal has been a God send to me as far as waking myself up.

....

[T]hat night when I ran [a car off the road and was arrested for DWI], that neither one of us didn't get killed, I think the good Lord was watching out for me, and I think I will do everything in my power as long as I can to let him – to keep me away from alcohol, and I really don't know what to add to that.

Individual's Exh. 11 (Tr. for Hearing in Case TSO-0314, Feb. 16, 2006).

In May 2006, the Hearing Officer found that the individual's access authorization should be restored because the individual had "achieved adequate rehabilitation." DOE Exh. 38, at 11 (Hearing Officer's Decision, May 31, 2006).

At age 46 (in October 2006), soon after the hearing, the individual relapsed. Tr. at 20. The individual's drinking increased throughout 2007, and by January 2008 every night he drank 48-60 ounces of beer and "a few shots" of liquor and became intoxicated. DOE Exh. 33, at 38, 43-44 (PSI, Mar. 17, 2008). At age 47, at 12:00am on January 25, 2008, he was arrested for DWI for the fourth time. *Id.* at 7.

The individual marked January 25th his official sobriety date, entered a five-day detoxification program, and then entered an inpatient treatment facility. *See id.* at 18, 59-60. The inpatient treatment facility released him on February 27, 2008. Soon thereafter, he began a five-week intensive outpatient program and resumed AA participation. *Id.* at 48, 52, 65; *see also* Tr. at 50.

At age 47 (in June 2008), a DOE-consultant psychiatrist diagnosed the individual with Alcohol Dependence with Physiological Dependence, in Early Partial Remission – an illness or mental condition that “may cause a significant defect in judgment or reliability.” DOE Exh. 13, at 12-13. (DOE-consultant psychiatrist Report, June 19, 2008). She based her diagnosis on the following:

- 1) The individual consumed larger amounts of alcohol than he intended;
- 2) The individual exhibited alcohol tolerance by showing a “markedly diminished effect” when consuming the same amount of alcohol;
- 3) As a part of the individual’s daily routine, he drank to intoxication;
- 4) The individual “gave up everything else” to drink;
- 5) The individual drank despite the fact that his drinking exacerbated his depression;
- 6) The individual expressed a persistent desire to stop drinking; and
- 7) When the individual stopped drinking, he developed the withdrawal symptoms of increased blood pressure and tremors.

Id. at 10-11.

The DOE-consultant psychiatrist concluded that the individual has not shown evidence of rehabilitation and reformation. *Id.* at 12. She said, “His new sobriety period is too short to predict permanent change of behavior or ensure lower risk of relapse in the immediate future.” She also said, “[R]elapsing while actively participating in AA meetings lends to a poorer prognosis. It indicates either the lack of meaningful participation, his inability to use therapeutic resources, and/or a more severe form of the disease that motivation alone could not control.” *Id.*

The DOE-consultant psychiatrist stated that to demonstrate rehabilitation and reformation, the individual must either:

- 1) Abstain for four years while:
 - a. Participating in AA, with sponsorship, at least three times per week for three years from his sobriety date; and
 - b. Receiving aftercare group therapy for a minimum of one year.

Or:

- 2) Abstain for six years.

Id. at 13.

The LSO suspended the individual's access authorization and issued him a Notification Letter that cited three security concerns. *See* DOE Exh. 1 (Notification Letter, July 10, 2008). The LSO alleged that the individual "has been diagnosed by a psychiatrist as alcohol dependent." *Id.* (citing 10 C.F.R. § 710.8(j) (Criterion J)). The LSO alleged that, "[T]his is an illness or mental condition which in the opinion of a psychiatrist causes, or may cause, a significant defect in judgment or reliability." *Id.* (citing 10 C.F.R. § 710.8(h) (Criterion H)). The bases for the LSO's Criterion J and H security concerns are:

- 1) In April 2005, a DOE-consultant psychiatrist diagnosed the individual with Alcohol Dependence with Physiological Dependence, in Early Full Remission, which is an illness or condition that may cause a significant defect in judgment or reliability;
- 2) Between November 2006 and December 2006, the individual relapsed. He drank 12-36 ounces of beer every two to three weeks, which progressed to every one to two weeks. His drinking escalated to 72-108 ounces of beer every evening. If he drank at a bar, he also drank 3-4 shots of liquor;
- 3) Since the individual's relapse, approximately every three to four months he drank and passed out;
- 4) From April 2007 to January 2008, on a daily basis the individual drank to intoxication;
- 5) In January 2008, the individual was arrested for DWI; and
- 6) In June 2008, a DOE-consultant psychiatrist diagnosed the individual with Alcohol Dependence with Physiological Dependence, in Early Partial Remission, which is an illness or mental condition that may cause a significant defect in judgment or reliability.

DOE Exh. 1 (Notification Letter, July 10, 2008).

The LSO also alleged that the individual "has engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation, or duress which may cause him to act contrary to the best interests of national security." *Id.* (quoting 10 C.F.R. § 710.8(l) (Criterion L)). The LSO stated that the bases for its Criterion L security concern are:

- 1) In June or July 1981, the individual was arrested for DWI;
- 2) In May 2001, the individual was arrested for DWI;
- 3) In June 2004, the individual was arrested for DWI;

- 4) In July 2005, the individual's access authorization was suspended because in April 2005, a DOE consultant-psychiatrist diagnosed him with Alcohol Dependence with Physiological Dependence, in Early Full Remission, which is an illness which may cause a significant defect in judgment or reliability. In August 2006, following an administrative review hearing, his access authorization was restored;
- 5) In October 2006, the individual relapsed and from approximately May 2007 to January 2008, every day he drank to intoxication. On January 25, 2008, he was arrested for DWI;
- 6) Prior to his January 2008 DWI arrest, the individual admitted to drinking after his AA meetings;
- 7) In March 2008, the individual admitted to violating the DOE's "eight hour rule" by drinking until 12:00am or 1:00am; and
- 8) In November 1990, June 1996, and May 2002, the individual signed DOE Security Acknowledgments certifying that he understood that he could lose his access authorization if a psychiatrist diagnoses him with alcohol dependence. In April 2005 and June 2008, a DOE-consultant psychiatrist diagnosed him with Alcohol Dependence with Physiological Dependence.

DOE Exh. 1 (Notification Letter, July 10, 2008).

The individual requested a hearing to respond to the LSO's security concerns, and I conducted the hearing on January 13, 2009. The individual was represented by an attorney. The individual testified and called the following witnesses: two co-workers, his former brother in-law, sister, AA sponsor, inpatient counselor, and outpatient counselor. The DOE counsel called the DOE-consultant psychiatrist.

At the hearing, the individual and the DOE counsel stipulated to the alcohol dependence diagnosis that the DOE-consultant psychiatrist gave the individual. Tr. at 6, 15. Additionally, the individual verified his testimony at the administrative review hearing in February 2006, his testimony at the PSI in March 2008, and the depiction of his drinking history in the DOE-consultant psychiatrist's reports. *Id.* at 13-15. Therefore, we considered the following issues: (i) whether the individual has resolved the LSO's Criterion J and H security concerns by rehabilitating and reforming himself from his alcohol dependence diagnosis; and (ii) whether the individual has resolved the LSO's Criterion L security concerns stemming from the individual's drinking history and his drinking after signing DOE Security Acknowledgements.

II. Summary of Hearing Testimony

A. The Individual

The individual testified that he is 48 years old and has been drinking for more than 30 years. He has been an alcoholic for the last ten years. *Id.* at 102. During his years of drinking, his longest period of sobriety has been 2 years and 4 months, beginning in June 2004. *Id.* at 101.

In October 2006, the individual “rejoined the drinking crowd” and relapsed. *Id.* at 20. He “got away from [his] support group” and “let [his] spiritual and psychological defenses wane.” *Id.* at 69. He “didn’t do the follow-through needed to maintain [his] sobriety.” *Id.* at 64. He had not used his AA sponsor to his sponsor’s “fullest capability.” *Id.* at 78. He also procrastinated going through the twelve steps. *Id.* at 107-108.

The individual has not had a drink since his last DWI arrest at 12:00am on January 25, 2008. *Id.* at 32, 83. Later that morning, he contacted his Employee Assistance Program and proposed inpatient treatment. *Id.* at 35-36. He entered inpatient treatment after five days of detoxification. *Id.* at 38.

Inpatient treatment “jerked” the individual out of his drinking pattern. *Id.* at 39. He spent most days in group counseling, although he also received individual counseling. *Id.* at 39-40. They worked on the twelve steps and treated his depression. *Id.* at 40, 45. For the first time, he disclosed to medical professionals that when he was a boy he had been sexually abused. *Id.* at 42. He finished inpatient treatment on February 27th. *Id.* at 50.

On February 28th, he began intensive outpatient treatment (IOP), which his inpatient treatment counselor recommended. *Id.* at 50-51. (The individual has never disagreed with treatment recommendations, although he has procrastinated. *Id.* at 105-107.) His IOP ended on April 3rd, and he began the IOP’s aftercare program. *Id.* at 55. In September 2008, he began attending a second aftercare program, and he still attends both. *Id.* at 57-58, 104.

The individual participates in 5-7 AA meetings a week. *Id.* at 56. (He began attending in July 2004, and attended through his October 2006 relapse. *Id.* at 21-22, 75.) He is “close” with his sponsor, who he regularly sees at meetings and talks to every day. *Id.* at 48-49. After his IOP, his sponsor helped him work through the twelve steps. *Id.* at 49-50. He has also chaired a dozen meetings. *Id.* at 77.

The individual does not keep alcohol in his home and he does not crave alcohol. *Id.* at 87, 89. He no longer sees his drinking friends and has avoided bars and drinking events. *Id.* at 81, 97, 104. To fill the time he used to spend drinking, he sees his AA friends, his son, and his father. *Id.* at 81-82. He also attends AA meetings, gets to bed on time, watches TV, and rebuilds a motorcycle. *Id.* at 88.

The individual testified that he is now “in a very good place.” *Id.* at 64. He no longer has a problem with depression, which was a contributing factor to his drinking. *Id.* at 78, 100. After he disclosed his sexual abuse, he woke up the next morning “like . . . a different person.” *Id.* at 45. Discussing it was a “soul-cleansing experience.” *Id.* at 73. (The abuse had been in the back of his mind his entire life and had been a trigger for his depression and drinking. *Id.* at 44-46.) He has “had the profound awakening they speak of, the spiritual awakening.” He has “a feeling of optimism, of excitement,” that he last felt “before [he] ever drank.” *Id.* at 91. He is “[a] hundred percent” dedicated to his sobriety; he plans to “abstain totally” and “stay with . . . AA.” *Id.* at 82, 90.

The individual acknowledges having previously said that he wouldn’t drink again. *Id.* at 73. Although he was sincere, he “knew” that he could not “guarantee[]” that he would not drink again, and that if he did drink again, he would face consequences. *Id.* at 29, 70. He still “can’t make a hundred percent promise that [he] won’t ever drink again.” *Id.* at 82.

B. Co-Worker #1

The first co-worker testified that he and the individual have been working acquaintances for seventeen years. *Id.* at 144. He has seen the individual daily for the last six years. *Id.* at 145. He has not observed the individual hung-over at work. *Id.* at 153. Since the individual lost his access authorization, they have had lunch together every day. *Id.* at 145. The individual has discussed his recovery with his lunch mates. *Id.* at 146.

C. Co-Worker #2

The second co-worker testified that he and the individual have been work acquaintances for twenty years. *Id.* at 219-220. He has also seen the individual at AA for the last three or four years. *Id.* at 220. At AA, the individual “participates well”; he “share[s] . . . experience, strength, and hope.” He also chairs meetings, which shows that he is participating in his recovery. *Id.* at 221.

D. The Individual’s Former Brother In-Law

The individual’s former brother in-law testified that he sees the individual once every two weeks. *Id.* at 229. They ride motorcycles or socialize at church or socialize with the individual’s son. *Id.* at 229-230. The individual and his son have a “good relationship.” *Id.* at 230. The individual does not keep alcohol in his house or garage, nor does he associate with his former drinking friends. *Id.* at 231, 233. When he and the individual frequent a popular outdoor recreation spot, the individual avoids alcohol and people who drink. *Id.* at 231.

The individual no longer suffers withdrawal symptoms. *Id.* at 132. He has a very good attitude about his recovery. *Id.* at 235.

E. The Individual's Sister

The individual's sister testified that she visited the individual during his inpatient care. He took "responsibility for what he had done wrong in his recovery" and "regain[ed] some confidence that he could . . . do well." "[H]e had a really good outlook" *Id.* at 210.

Before the individual's relapse he had intended to stay sober, but did not know "what it took." "[H]e wasn't real involved with [AA]" "He would come to a meeting and just split" *Id.* at 213.

The individual told her that at the 2008 family Christmas party he did not have alcohol cravings. *Id.* at 211. He does not keep alcohol in his house. *Id.* at 216.

F. The Individual's AA Sponsor

The individual's AA sponsor testified that he met the individual six or seven years ago, through work. *Id.* at 183. They have been attending the same AA meeting for about three years. *Id.* at 184. When the individual was discharged from inpatient treatment, the individual asked him to be his AA sponsor. *Id.* at 184-185.

The individual's AA sponsor has sought "to build a relationship of trust" with the individual. *Id.* at 186. The individual calls him "consistently," which shows that his sobriety is "important" to him. *Id.* at 196. They "try to meet at least once a week." *Id.* at 190. Together they worked through the twelve steps. *Id.* at 191. He is satisfied with the effort that the individual puts into their individual meetings. *Id.* at 192. He believes that the individual has stayed sober since his abstinence date in January 2008; if the individual relapsed, he would have known from the individual's behavior (even if the individual had not told him). *Id.* at 202.

The individual's AA participation at group meetings shows that the individual is "trying to go on with his life." *Id.* at 193. His sponsor "see[s] him staying sober . . . [and] extremely involved in [AA]." *Id.* at 197.

G. The Individual's Inpatient Counselor

The individual's inpatient counselor testified that the inpatient treatment facility specializes in addiction, depression, anxiety, and other psychological problems. *Id.* at 161. The individual's inpatient counselor was the individual's primary counselor during his inpatient treatment. *Id.* at 162.

The individual had "hit a pretty difficult bottom . . . and was at a point of hopelessness." He had "experienced . . . trauma in his life at an early age," which contributed to his drinking by lowering his self-esteem. *Id.* at 164, 167-169. Because the individual had "very poor self-esteem" and "no self-worth," he "became dependent upon alcohol to cope with his . . . daily living problems." *Id.* at 164, 167.

The individual identified the problem of his abuse and “work[ed] through it.” *Id.* at 169. He was “cooperative and honest,” “willing to share openly,” and “participated well in groups.” *Id.* at 164. He has completed his treatment plan and has “move[d] on with his life.” *Id.* at 169, 174. His chances for relapse are “low.” *Id.* at 176.

H. The Individual’s Outpatient Counselor

The individual’s outpatient counselor testified that he agrees with the alcohol dependence diagnosis that the DOE-consultant psychiatrist gave the individual. *Id.* at 114. He cannot gauge the individual’s recovery progress because he has not developed a treatment plan for him. *Id.* at 135. (He only met him a month before the hearing, and has only seen him four times. *Id.* at 112, 125.) The individual’s treatment plan will address the individual’s depression and substance abuse. *See id.* at 127-128. The individual disclosed his child abuse to him a day before the hearing and told him that the issue has not been resolved. *Id.* at 126.

The individual’s risk of relapse is “high.” *Id.* at 139. He will “move” his risk of relapse to “medium” or “low” if he abstains from alcohol for two years, continues AA daily, and obtains alcohol monitoring. *Id.* at 128, 131, 133, 138, 139.

I. The DOE-Consultant Psychiatrist

The DOE-consultant psychiatrist testified that alcohol dependence is a chronic, relapsing disease. *Id.* at 259, 266. The individual still met the alcohol dependence diagnosis that she gave him in June 2008, although it changed from Early Partial Remission to Early Full Remission. *Id.* at 244-245, 251.

The individual’s risk for relapse is “high.” *Id.* at 250. The best predictor of future behavior is past behavior. *Id.* at 249. The individual’s recent relapse makes his statements of intended sobriety unreliable. *Id.* at 262. (Many substance abusers intend to abstain but cannot; that fact does not describe their honesty. *See id.*)

Given the individual’s drinking history, he must have four years of sobriety to demonstrate rehabilitation and reformation. *See id.* at 246. His childhood sexual abuse “strengthens” her four-year recommendation, but does not lengthen it. *Id.* at 252-253. The abuse is “very relevant” but has not been adequately “addressed” because he may have repressed it; he only disclosed it recently and when she evaluated him, he had the chance to disclose it to her, but he did not. *Id.* at 268-269.

III. Legal Standard

In order to grant or restore an individual’s access authorization, the Hearing Officer must find that the grant or restoration “will not endanger the common defense and security and is clearly consistent with the national interest.” 10 C.F.R. §§ 710.7(a), 710.27(a); *see also Dep’t of the Navy v. Egan*, 484 U.S. 518, 528 (1988). In order for the Hearing Officer to make this finding, the individual must resolve the security concerns that the

DOE identifies in its Notification Letter. *See, e.g., Personnel Security Hearing*, Case No. TSO-0586 (2008).¹

The individual must resolve the DOE's security concerns by presenting evidence to rebut, refute, explain, extenuate, or mitigate the allegations supporting the DOE's security concerns. *See, e.g., Personnel Security Hearing*, Case No. TSO-0598 (2008).

The individual has the burden to resolve the DOE's security concerns because once the DOE finds a security concern, "[T]here is a strong presumption against granting a[n access authorization]." *Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990). "[D]eterminations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; *see also* 10 C.F.R. § 710.7(a) ("Any doubt as to an individual's access authorization eligibility shall be resolved in favor of the national security.").

The Hearing Officer considers "all relevant information, favorable and unfavorable," to issue a decision that is "a comprehensive, common-sense judgment." 10 C.F.R. § 710.7(a). The Hearing Officer shall consider the following factors: witness demeanor and credibility; the authenticity and accuracy of documentary evidence; the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledge and participation; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the voluntariness of participation; the absence or presence of rehabilitation or reformation and other pertinent behavior changes; the motivation of the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuation or recurrence; and other relevant and material factors. *Id.* at §§ 710.7(c), 710.27(a)-(b).

IV. Analysis

A. Criterion J and H

The Notification Letter presents Criterion J and H security concerns stemming from the individual's latest relapse, his escalated drinking (which culminated in his fourth DWI arrest), and the alcohol dependence diagnosis.² The individual attempted to resolve the LSO's concerns by presenting evidence of rehabilitation and reformation.

The individual and his witnesses convinced me that the individual has been sober for nearly a year. (From January 25th, 2008, to the date of the hearing, January 13th, 2009.) He acknowledged his alcohol dependence and took charge of his recovery by avoiding alcohol and through intensive professional treatment and improved, exemplary AA participation. He treated his depression and has courageously begun to address his sexual

¹ Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.oha.doe.gov>. The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at <http://www.oha.doe.gov/search.htm>.

² I address the LSO's Criterion J and H security concerns together because (i) in its Notification Letter, the LSO addressed them together; and (ii) the Criterion H concern stems from the Criterion J concern.

abuse. His family and friends support him, while his former drinking friends respect his sobriety. The individual is optimistic and proud of his treatment progress.

However, I find that the individual has not resolved the LSO's security concerns. The individual's outpatient counselor and the DOE-consultant psychiatrist testified that he is not rehabilitated and reformed because he has not completed treatment for the abuse that triggered his drinking, and he has not been sober long enough to lower his risk of relapse, which is still "high." The individual's inpatient counselor testified that the individual is rehabilitated and reformed because he has treated his depression and abuse, and his risk of relapse is "low." For the following reasons, I am persuaded by the individual's outpatient counselor and the DOE-consultant psychiatrist.

First, the record conflicts on whether the individual has resolved his abuse. Although the individual testified that disclosing it has brought relief and his inpatient counselor testified that he has "worked through it," the individual's outpatient counselor testified that the day before the hearing the individual told him that his abuse has not been resolved.

Second, the individual's relapse – after dramatic consequences from previous relapses, including four DWI arrests, the breakdown of his marriage, the loss of his access authorization and administrative review – suggests that to lower his risk of relapse, the individual must remain sober longer than he has previously. In the cycle of intoxication that has gripped him since he began drinking heavily at age eighteen, the length of his sobriety at the time of the hearing (one year) falls far short of the length of his longest period of sobriety (two years and three months).

Third, the individual expressed confidence in his sobriety at the first hearing, just as he did at the second. Despite having a longer period of sobriety at the first hearing, he still relapsed.

B. Criterion L

The DOE's Notification Letter presents a Criterion L security concern, stemming from the individual's (i) four DWI arrests; (ii) most recent relapse and escalated drinking; (iii) drinking after AA meetings; (iv) violation of the DOE's "eight hour rule"; and (v) drinking after signing three DOE Security Acknowledgements, stating that he understood that he may lose his access authorization if a psychiatrist diagnoses him with alcohol dependence.

I find that the individual has not resolved the LSO's Criterion L security concern. Because he is not rehabilitated and reformed from his alcohol dependence, he still has the condition that he acknowledged may lead to the loss of his access authorization. He is also still susceptible to his life-long pattern of relapse and escalated drinking, which increases his risk of unusual conduct, such as DWI and violation of the "eight hour rule."

V. Conclusion

Because the individual has not resolved the LSO's Criterion J, H, and L security concerns, I find that the DOE should not restore the individual's access authorization.

The parties may seek review of this Decision by an Appeal Panel, under the regulation set forth at 10 C.F.R. § 710.28.

David M. Petrush
Hearing Officer
Office of Hearings and Appeals

Date: March 11, 2009